

**REMARKS**

Claims 1-39 are pending in this application. Claims 9-12 and 28-31 were withdrawn from consideration. Claims 1-8, 13, 14, 20-27, 32, 33 and 39 are rejected and claims 15-19 and 34-38 are objected to. Applicants appreciate the Examiner's indication that Claims 15-19 and 34-38 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Reconsideration and reexamination of the application is respectfully requested in view of the following remarks.

**Rejection under 35 U.S.C. §103**

Claims 1, 3-8, 13, 14, 21, 23-27, 29, 32 and 33 stand rejected under 35 U.S.C. §103 as being unpatentable over Japan 11-47066 in view of Berford, U.S. Patent No. 1,358,507. This rejection is respectfully traversed.

It is necessary that Japan '066 or Berford teach or suggest every element of the invention in this application, the adjustable utensil carrier, for a §103 rejection to be applicable. Neither Japan '066 or Berford suggest every element of the invention and thus the Examiner's §103 rejection is improper.

Japan '066 discloses and claims a dishwasher containing a lower basket 2a with a lower nozzle 3a for ejecting water for washing and an upper basket 2b with an upper nozzle 3b that also ejects water for washing. The advantage of this invention is that a valve stops the flow of wash water from the upper nozzle 3b based on the position of the upper basket 2b. Japan '066 does not, in any way, suggest an adjustable utensil carrier as is claimed in independent claims 1 and 21 of the present application.

Furthermore, Berford also does not teach or suggest this precise element. Berford discloses a dishwasher of a compact form that sprays water simultaneously from above and below the articles to be cleansed. In Berford, the dishwasher contains an inner dish container C which has a dish rack D and a cup and silver rack E within. The dish rack D rests upon the

bottom of the dish container C and the cup and silver rack E is mounted above the dish rack D. Wash water is released into the dish container C through holes 11 in the tubular edge 7 and through the plurality of nozzles 12 with perforated stops 12'.

Independent claims 1 and 21 claim, in addition to other elements, "an adjustable utensil carrier located within the utensil holding space and adjustable relative to the bottom of the basket to form an inclination angle relative to the bottom wall of the basket such that a utensil supported by the adjustable utensil carrier can be positioned such that a food contact surface of the utensil is exposed to direct spray from both the water spray assembly and the at least one side sprayer." Neither Japan '066 or Berford discloses a carrier such as this. The adjustable utensil carrier of the present application is located "within the utensil holding space," which is located within the basket. Additionally, the adjustable utensil carrier of the present application adjusts relative to the bottom of the basket to form an inclination angle and is positionable "such that a utensil...can be positioned such that a food contact surface of the utensil is exposed to direct spray from both the water spray assembly and the at least one side sprayer."

The Examiner suggests that the adjustable utensil carrier claimed in the present application is element 9b of Japan '066. However, element 9b does not form an inclination angle relative to the bottom of the basket, a required element of independent claims 1 and 21. Additionally, as it appears in Fig. 7, element 9b is not located within the utensil holding space of the basket but as shown, element 9b appears to be its own independent basket. Finally, Japan '066 does not disclose or suggest a side sprayer that sprays laterally, as is claimed in the present application.

Moreover, the Examiner suggests combining Japan '066 with Berford. Berford also does not disclose or suggest an adjustable utensil carrier of the present application but teaches

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a utensil carrier that is separate from the basket and is not exposed to the sprayer that is capable of spraying the wash water in a lateral position.

For these reasons, the Examiner's §103 rejections of claims 1-8, 13, 14, 20-27, 32, 33 and 39 are erroneous and should be withdrawn.

### CONCLUSION

For the reasons discussed above, Applicants believe that claims 1-8, 13-27 and 32-39 are in condition for immediate allowance. It is respectfully submitted that all of the pending claims in the application are allowable over the prior art of record. Early notification of allowability is respectfully requested.

If there are any questions regarding this matter, please contact the undersigned attorney.

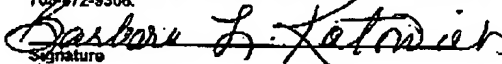
Respectfully submitted,



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Dated: June 27, 2005

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